REMARKS

This amendment is submitted in response to the Examiner's Final Action dated September 20, 2004. Applicants have amended several claims. First, Applicants amended Claim 22 pursuant to Examiner's statement granting conditional allowance to that claim if rewritten in independent form. Second, the original independent claim (Claim 21) has been canceled. Third, Applicants have further incorporated features of dependent claims (2, 11-12, and 20, 23 and 24, now canceled) into their respective independent claims (1, 10, and 19) to present a more complete picture of Applicants' claimed invention.

No new matter has been added, and the amendments (1) place the claims in better condition for allowance and (2) reduce issues for appeal, if required. Applicants respectfully request entry of the amendments to the claims. The discussion/arguments provided below reference the claims in their amended form.

ALLOWABLE SUBJECT MATTER

In the present Office Action, Examiner states that Claims 4, 6, 8, 9, 13-18 and 22 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, Applicants have incorporated the features from independent claim 21 (now canceled) into Claim 22. With respect to the other conditionally allowed claims, Applicants present arguments below which overcome the rejections of the remaining independent claims from which these claims depend. The above amendment and arguments proffered below overcome the claim objections and rejections and places all claims in condition for allowance. Applicants respectfully request Examiner review the arguments below, remove the conditionality of the allowance, and extend the allowance to cover all pending claims.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

In the present Office Action, Claims 1, 2, 10, 11, 19-21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Qureshi, et al.* (U.S. Patent No. 6,769,059) in view of *Wallace, Jr.* (U.S. Patent No. 6,349,269). Claims 3, 12 and 24 are rejected under 35 U.S.C.

103(a) as being unpatentable over *Qureshi* in view of *Wallace, Jr.* and further in view of *Odsohhara* (U.S. Patent 6,574,740).

Claims 2, 11-12, 20-21, and 23-24 are now canceled. The features of these canceled claims have been incorporated into their respective independent claims. Claim 3 is dependent on independent Claim 1. Applicants provide arguments below supporting the allowability of Claim 1 and the other independent claims, which allowability extends to cover Claim 3. Arguments below are thus directed to the rejection of the independent claims.

With respect to independent Claims 1, 10, and 19, the combination of *Qureshi* and *Wallace* does not suggest the following features of Applicants' claimed invention:

(1)   "providing **thermal profile data** within said patch file about an installed processor of said data processing system;"

(2)   "modifying ... ACPI/APM ... to **dynamically** read said thermal profile from the patch file and **update** an associated **temperature control function**;"

(3)   "associating said **thermal profile data** ..., wherein said BIOS operates with the thermal profile data taken from said patch file;" and

(4)   "enabling **dynamic updates** of the thermal profile data and the BIOS via a new patch file stored within the memory location" (emphases added).

.*Qureshi* does not teach (or suggest) anything remotely close to or suggestive of temperature control via thermal profile data. Examiner acknowledges this deficiency in *Qureshi* and admits that *Qureshi* does not teach an operating parameter being a thermal profile.

Examiner, however, relies on col. 2, lines 6-67 and col. 4, lines 56-67 to support a partial rejection of "providing thermal data within the patch file about an installed processor." A careful review of those sections of *Qureshi* reveals that Examiner has mischaracterized what features are taught by those sections and that those sections do not support Examiner's conclusory statement.

What is described at columns 2 and 4 is a method for updating the video BIOS of the computer system during power-on of the computer. A hot key sequence is entered by the user

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during power on, and this entry triggers the system BIOS (responsible for initializing system components during power-on of the system) to read the new video BIOS from a floppy disk inserted in the disk drive of the computer system. The video BIOS is then written into a memory chip, which may be a flash memory chip (*see* col. 2 lines 6-10, 24-31, 37-40, 43-45, and 62-65). The preamble of the claim at col. 4, lines 56-61 describes: "update of said system's video BIOS with a new video BIOS and load a chipset patch... in response to a predefined user-input." Lines 65-66 provide "writing said new video BIOS and said chipset patch into a memory."

Use of the chipset patch (i.e., a program routine called by video BIOS to fix problems in the chipset) is described at col. 3, lines 1-19. Notably, in that section also, the writing of the new video BIOS into memory causes the system BIOS to "reset the PC system and restart the preliminary initialization of various PC components." The system thus reboots after any updates to the video BIOS.

At col. 3, lines 20-25, *Qureshi* makes it clear that its method only applies to an initialization period following power-on of the computer. That section states that "once the new video BIOS 110 completes its initialization, ... relinquishes control back to the system BIOS ... continues with the initialization of the PC, and when the initialization of the PC is complete, the system BIOS relinquishes control of the PC to the operating system." This limitation defines *Qureshi* as an very specific video BIOS update procedure during power up of the computer, responsive to a specific user-entered key-sequence. One skilled in the art would not have found this limited application of video BIOS update to be suggestive of Applicants' claimed invention, dealing with dynamic updates of temperature control parameters for a processor.

Examiner incorrectly asserts that *Wallace* teaches "updating an operating parameter such as a thermal profile." Col. 6, lines 15-21 and col. 7, lines 49-55 relied on by Examiner to support this assertion both fail to teach or suggest this feature. Specifically, col. 6 describes "a temperature value at which the computer system 100 shuts down" and calculating "the time until shutdown value" to determine if the time is "greater than a maximum time value (indicating there is no immanent danger of shutdown...)." Col. 7 describes a graph that indicates the "operation of thermal management data prediction system" (line 45-46). The graph includes

several lines representing "the raw temperature value of the computer system... filtered temperature value... temperature limit value ...time until shutdown ... future temperature value."

Thus, neither of the above sections describes the feature they are being relied on to suggest, namely providing thermal profile data of a processor in a patch file. In fact, the features being described by *Wallace* cover extrapolating/determining a specific temperature at which shutdown occurs. In direct contrast, Applicants' claims provide a patch file with this information for the processor. Further, Applicant's claims provide a direct update of temperature data to enable the handling of temperature control without extrapolation or further determination.

Examiner incorrectly states in his conclusory paragraph (page 3) that *Wallace* is directed to "updating operating parameter environment." Wallace is specifically directed to "thermal data prediction" geared towards "predicting temperature variations based upon past temperature readings" and "prediction of the amount of time left before a system shutdown may occur" (Abstract). Applicants are unclear where in that process/algorithm Examiner finds a suggestion of directly updating temperature data of the processor via a patch file with thermal profile data.
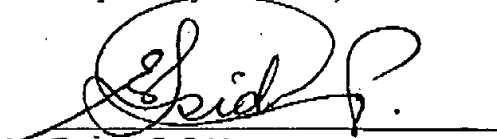
Given that *Wallace* is not really providing temperature control information to the computer but rather using the temperature data in downstream calculations, it is unlikely that one skilled in the art would have been inclined to combine the processes described by *Wallace* with that of *Qureshi*, absent the specific teachings provided by Applicants' specification and claims. Further, Applicants have shown that the combination(s) of references do not suggest key features of Applicants' claimed invention. One skilled in the art would not find Applicants' invention unpatentable, and Applicants' claims are therefore allowable over the combination.

CONCLUSION

Applicants have diligently responded to the Office Action by amending the claims to more completely recite the claimed features within the independent claims and providing arguments that indicates that the claimed invention is not obvious over the combination of references. One claim has been rewritten in independent form pursuant to Examiner's request to place the claim in condition for allowance. The amendments and supporting arguments overcome the objection and §103 rejection, and Applicants, therefore, respectfully request reconsideration of the objection and rejection and issuance of a Notice of Allowance for all claims now pending.

Applicants further respectfully request the Examiner contact the undersigned attorney of record at 512.343.6116 if such would further or expedite the prosecution of the present Application.

Respectfully submitted,

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